Criminal Misc. Application no. 200 of 2003

Km. Komal Thakur and another ---------- Applicants

Versus

State of Uttaranchal and others ---------- opposite parties

Hon'ble M.M.Ghildiyal, J.

Heard Sri Ramjee Srivastava learned counsel for the applicants and Learned A.G.A.

This application under section 482 Cr.P.C. has been moved with a prayer to quash the charge sheet dated 11.7.2002 and proceedings of criminal case no. 1684 of 2002 Deepak Sharma and another Vs. State, under sections 420 ad 408 I.P.C. pending in the court of Chief Judicial Magistrate, Dehradun.

A first information report was lodged on 3.6.2002 by opposite party no.2 against the applicants with the allegations that the opposite party no. 2 is the Director of computer institution and the applicants had been working in the institution of opposite party no. 2. They were entrusted the work of depositing the fees realized form the students and the applicants collected the fee from the students but they did not deposit the same in the account of the institution or deposited the amount less than what they had collected. It was alleged in the FIR that the applicants have embezzled a sum of about Rs. 2,50,000.00. On the basis of the said FIR case crime no. 177 of 2002 was registered at P.S. Dalanwala district Dehradun against the applicants. Criminal Misc. case no. 171 of 2002 was filed by the applicants before this court challenging the FIR and this court on 13.6.2002 passed the following order:-

> "Meanwhile the petitioner no.2 shall report at the police station and cooperated in the investigation and meanwhile coercive measures shall not be taken against the petitioner and the material collected during the investigation shall be brought to the notice of the Court."

After the Investigating Officer has submitted charge sheet dated 11.7.2002 against the applicants under section 420 and 408 I.P.C. in the court of Chief Judicial Magistrate, Dehradun and the Chief Judicial

Magistrate has taken cognizance and the proceeding of criminal case no. 1684 of 2002, Deepak Sharma and another under section 420/408 IPC is going on in the court of Chief Judicial Magistrate.

The learned counsel for the applicants could not show any illegality and abuse of process of law. A prima facie case is made out against the applicants. On the basis of the charge sheet submitted by the Investigating Officer the Chief Judicial Magistrate, Dehradun has taken cognizance. There is no illegality. The application under section 482 Cr.P.C. is dismissed.

September 17, 2003 **(M.M.Ghildiyal, J.)**
MPS